

REMARKS/ARGUMENTS

Claims 1-8 are pending in the instant application; claim 3 has been canceled; and new claims 9-25 have been added. Support for the new claims is found in the specification and claims as filed. Claim 1 has been amended to recite that the electrode comprises a self assembled monolayer and a capture ligand bound to the self assembled monolayer. Support is found throughout the specification, for example paragraph [0078]. Claims 2, 4, 5 and 7 have been amended to included dependency to claim 8. No New Matter is introduced by way of this amendment. Amendment to and cancellation of the claims does not affect inventorship.

Applicants have not dedicated or abandoned any unclaimed subject matter and, moreover, have not acquiesced to any rejections made by the U.S. Patent and Trademark Office. Applicants reserve the right to pursue prosecution of any presently excluded claim embodiments in future continuation and/or divisional applications.

Double Patenting Rejections Based on U.S. Patent No. 6,290,839 B1

Claim 1 is rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over the combination of claims 5 and 14 of U.S. Patent No. 6,290,839 B1 in view of Ackley U.S. Patent No. 5,728,532 ("Ackley"), Anderson *et al.* U.S. Patent No. 5,922,591 ("Anderson"), Besemer *et al.* U.S. Patent No. 5,945,334 ("Besemer") and Krihak *et al.* U.S. Patent No. 5,945,286 ("Krihak").

Claim 2 is rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over the combination of claims 5, 14 and 8 of U.S. Patent No. 6,290,839 B1 in view of Ackley, Anderson, Besemer and Krihak.

Claim 3 is rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over the combination of claims 5 and 26 of U.S. Patent No. 6,290,839 B1 in view of Ackley, Anderson, Besemer and Krihak.

Claim 4 is rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over the combination of claim 5 of U.S. Patent No. 6,290,839 B1 in view of Zanzucchi *et al.* U.S. Patent No. 5,585,069 ("Zanzucchi") and Batchelder U.S. Patent No. 4,390,403 ("Batchelder").

Claims 5 and 6 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over the combination of claim 5 of U.S. Patent No. 6,290,839 B1 in view of Zanzucchi and Batchelder.

Claim 7 is rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over the combination of claims 5 and 8 of U.S. Patent No. 6,290,839 B1 in view of Ackley, Anderson, Besemer and Krihak.

Submitted herein is a Terminal Disclaimer disclaiming the terminal portion of the patent issuing from the present application that would extend beyond the expiration of co-assigned 6,290,839. Applicants request that the rejections based on U.S. Patent 6,290,839 be withdrawn.

Double Patenting Rejections Based on U.S. Patent No. 6,264,825 B1

Claim 1 is rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over the combination of claims 13 and 27 of U.S. Patent No. 6,264,825 B1.

Claim 2 is rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over the combination of claims 13, 27 and 17 of U.S. Patent No. 6,264,825 B1.

Claim 3 is rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over the combination of claims 13, 27 and 17 of U.S. Patent No. 6,264,825 B1.

Claim 4 is rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over the combination of claims 13 and 27 of U.S. Patent No. 6,264,825 B1 and in view of Zanzucchi and Batchelder.

Claims 5 and 6 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over the combination of claims 13 and 27 of U.S. Patent No. 6,264,825 B1 in view of Zanzucchi.

Claim 7 is rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over the combination of claims 13, 27 and 17 of U.S. Patent No. 6,264,825 B1 and Anderson.

Claim 8 is rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over the combination of claims 13 and 27 of U.S. Patent No. 6,264,825 B1.

Submitted herein is a Terminal Disclaimer disclaiming the terminal portion of the patent issuing from the present application that would extend beyond the expiration of co-assigned U.S. Patent No. 6,264,825. Applicants request that the rejections based on U.S. Patent No. 6,264,825 be withdrawn.

Applicants note that this was the only rejection of claim 8. As such, Applicants submit that claim 8 and those claims dependent therefrom are allowable.

Claim Rejections Under 35 U.S.C. § 103

Claims 1, 2 and 7 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Thorp *et al.* U.S. Patent No. 5,968,745 ("Thorp") in view of Ackley, Anderson and Besemer.

Claim 3 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Thorp in view of Ackley, Anderson and Besemer as applied to claims 1, 2 and 7 above, and further in view of Krihak.

Claim 4 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Thorp in view of Ackley, Anderson and Besemer as applied to claims 1, 2 and 7 above, and further in view of Zanzucchi and Batchelder.

Claims 5 and 6 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Thorp in view of Ackley, Anderson and Besemer as applied to claims 1, 2 and 7 above, and further in view of Zanzucchi.

Without necessarily agreeing with the rejection, but rather to expedite prosecution of this application, claim 1 has been amended to recite that the electrode comprises a self assembled monolayer and a capture ligand bound to the self assembled monolayer. Each limitation of the claims is not found in the cited references, alone or in combination. As such, Applicants submit that the claims are in form for allowance. Applicants respectfully request the Examiner to withdraw the rejection.

Information Disclosure Statement

Applicants will provide the missing references under separate cover.

Conclusion

Applicants believe the claims are in a condition for allowance. Early notification thereof is respectfully requested. If the Examiner has any questions, he is invited to call the undersigned at 415.442.1216.

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